IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3489 OF 2007

Shri.Nilesh Prakash Chavan. ...Petitioner

vs.

1.The Chief Executive Officer & ors. ...Respondents.

Mr.P.B.Shah, for Petitioner.

Mr.M.B.Mehere, for Respondent no.1.

Mr.A.H.Solkar, AGP for Respondent nos.2, 3 and 5.

Mr.G.S.Hegde, for Respondent no.4.

CORAM: D.K.DESHMUKH &

V.M.KANADE, JJ.

DATED: 3rd DECEMBER,2007.

P.C.:-

1. Rule returnable forthwith. Heard finally by consent of parties.

2. The name of the petitioner was admittedly approved by the Collector as a nominee

of a freedom fighter. But that nomination of the petitioner as a nominee of freedom fighter has been cancelled by order dated 6.1.2007. The petitioner before cancellation of his nomination was selected by Zilla Parishad for the post of Agriculture Development Officer. As a consequence of cancellation of nomination by communication dated 21.3.2007 the selection of the petitioner as Agriculture Development Officer against the seat reserved for nominee of freedom fighter is also cancelled. The grievance of the petitioner is that though it appears that the Collector before making the order dated 6.1.2007 called for a report from the Sub Divisional Officer and on receiving the report he made the order, before making the order a copy of that report was not given to the petitioner and he was not given an opportunity of being heard on that report. The learned Counsel appearing for Collector is also not in a position to definitely state before us that a copy of the report of the Sub Divisional officer on the basis of which the order dated 6.1.2007 was made was supplied to the

petitioner and the petitioner was given an opportunity to submit his say in relation to that report. The result of the order dated 6.1.2007 is that the selection of the petitioner as the nominee of a freedom fighter for appointment to the post reserved in that category has also been cancelled. As it appears to us that the order dated 6.1.2007 is made in breach of the principles of natural justice, in our opinion, that order will have to be set aside. In our opinion, the following order would meet the ends of justice:-

(i) The order dated 6.1.2007 passed by the Collector impugned in the petition is set aside.

(ii) Within a period of two weeks from today, the petitioner shall file an affidavit putting forth his case in relation to the report dated 19.9.2006. The petitioner shall also be at liberty to produce any documents that he wants to rely in support of his case.

(iii) The Collector shall, after receiving the report, within a period of four weeks thereafter, make a fresh order in relation to nomination of the petitioner as a nominee of the freedom fighter.

(iv) Order dated 21.3.2007 passed by the Zilla Parishad impugned in the petition is also set aside.

(v) The Zilla Parisad shall act pursuant to the fresh order as may be made by the Collector.

Rule is made absolute accordingly.

No order as to costs.

(D.K.DESHMUKH, J.)

(V.M.KANADE,J.)